

REMARKS

The Office Action dated December 20, 2007 states that the application should be reviewed for errors, noting spelling errors in the specification and claims. These spelling errors have been corrected in the claims. It is respectfully requested that the correction of spelling errors within the specification be deferred until an indication of allowability has been received. At that time a thorough review of the specification will be conducted.

Claims 14-28 are currently pending in the application, with claim 14 being the sole independent claim. Claims 14-16, 18-19, 22 and 24-26 have been amended in view of the rejections under 35 U.S.C. §112, first and second paragraphs.

RESPONSE

Claim rejections under 35 U.S.C. §112, first paragraph

Claim 25 has been rejected under 35 U.S.C. §112, first paragraph. The Office Action states that no basis or support is found in the present specification for the evaporation of "two other active compounds" as recited in claim 25. Claim 25 has been amended in response thereto stating that the solvent layer is evaporated. It is respectfully requested that the rejection of claim 25 under 35 U.S.C. §112, first paragraph, be withdrawn.

Claim rejections under 35 U.S.C. §112, second paragraph

Claims 14-28 are rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. In particular, the Office Action rejects claim 14, stating that "a fungus" should be amended to state "the fungus". Claim 14 has been amended as suggested. Claim 15 has also been amended to state "the fungus" to clarify the antecedent basis.

Claim 15 has also been amended to change the phrase "known nutrient" to "modified chemically defined growth medium" in response to the rejection of this phrase as being vague, indefinite and confusing.

Claim 16 has been amended to remove the phrase "disc of the inoculum" and to recite that the subjecting step is performed aseptically. Claims 18 and 19 have been amended to recite that the inoculum have a particular disc size, as discussed in the specification at page 3, lines 1-5.

Claim 22 has been amended to clarify that the viscous mass is "treated with solvents, thereby producing" a solvent layer and an oily layer.

Claim 24 has been amended to remove the indefinite "such as" phrase.

Claim 25 has been amended to clarify that the solvent layer, not the two other active compounds, is evaporated.

Claim 26 has been amended to remove the phrase "non-polar" therefrom to place the claim in proper dependent form, further limiting the subject matter of the previous claim.

In view of the amendments made herein, it is respectfully requested that the rejection of claims 14-28 under 35 U.S.C. §112, second paragraph, be withdrawn.

Rejections under 35 U.S.C. §112, first paragraph, Deposit of Biological Material

Claims 14-28 are rejected under 35 U.S.C. §112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. In particular, the Office Action notes that the invention appears to employ a specific strain of *A. alternata* and it is not clear if the written description is sufficiently repeatable to avoid the need for a deposit and it is not clear if the starting materials were readily available to the public at the time of the invention.

Alternaria alternata f.sp. *lantanae* have been deposited at the Indian Agricultural Research Institute-Division of Plant Pathology, Indian Agriculture Research Institute (IARI), New Delhi 110 012 under the Budapest Treaty as Deposit No. ITCC-4896. It is noted that the IARI is not an internationally recognized depository.

Accordingly, the *Alternaria alternata* f.sp. *lantanae* have now been deposited at the Microbial Type Culture Collection & Gene Bank, Institute of Microbial Technology, (MTCC) Sector 39-A, Chandigarh, India under the Budapest Treaty. A declaration identifying this deposit of biological material, according to the requirements set forth in the Office Action and 37 CFR 1.801-1.809, will be duly submitted.

Respectfully submitted,

THE WEBB LAW FIRM

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